SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE ATBILASPUR
(CHHATTISGARH)

W.P.No. 1082 / 2006

Petitioner

Dr.Sayeed Ahmed Khan, S/o Late Shri Mohammad Khan, Aged about 56 years, Presently working as Professor 'Chemistry', Govt. Science P.G. College, Bilaspur, R/o 26 Dr.Roy Marg, Khaparganj, Bilaspur (C.G.)

Versus

Respondents :

1. State of Chhattisgarh – Through the Secretary, Higher Education, DKS Bhavan, Raipur (C.G.)
2. The Deputy Secretary, Higher Education, State of Chhattisgarh, DKS Bhawan, Raipur (C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. No. 1082 of 2006

Petitioner : Dr. Sayeed Ahmed Khan

Versus

Respondents : State of Chhattisgarh & another

Post for order on 13th September, 2006

Sd/-
Satish K. Agnihotri
Judge

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**

W. P. No. 1082 of 2006

Petitioner : Dr. Sayeed Ahmed Khan

Versus

Respondents : State of Chhattisgarh & another

Shri P. Diwakar, Senior Advocate Shri Adil Minhaj, Advocate for the petitioners.

Shri Sushil Dubey, Govt. for the State/respondents.

ORDER

(13th September, 2006)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioner was working as professor "Chemistry" in Government Science Post Graduate College, Bilaspur. Vide order dated 14.10.2005 (Annexure P/2) the petitioner was promoted on the post of Principal, and transferred to Government post Graduate College, Baikunthpur, District-Koria.

2. The petitioner has filed the present petition for quashing of the impugned order dated 14.10.2005, so far as it relates to transfer of the petitioner from Bilaspur to Baikunthpur, seeking a direction to the respondents to post the petitioner in the institution at Bilaspur on the Post of principal, and, in alternative, it has been submitted by the petitioner that he is ready to forego his promotion on the post of Principal, if, it is not possible to accommodate him at Bilaspur, and he is willing to serve in the institution at Bilaspur on the post of Professor.

3. The petitioner had filed this petition on 2.3.2006. During the pendency of the petition, on 6.9.2006 the petitioner has filed Interlocutory Application No. 9012/2006 for bringing on record the subsequent events and additional documents. It is evident from the additional documents filed by the petitioner, that vide order dated 5.7.2006 (Annexure AD-1) by way of partial amendment in the impugned order dated 14.10.2005 (Annexure P/2) the petitioner was transferred to Government Post Graduate College, Dhamtari on promotion as post graduate Principal. Subsequently, vide order dated 6.7.2006 (Annexure AD-2) by way of partial amendment in the order dated 5.7.2006 (Annexure AD-1) the petitioner was transferred to Government Minimata Girls College, Korba. It has been mentioned in this application that in compliance of the order dated 6.7.2006 (Annexure AD-2) the petitioner has joined his services on the post of Principal, Government Minimata Girls College, Korba but the petitioner is still ready and willing to serve in the Government Science Post Graduate College, Bilaspur on the post of Professor. The petitioner has filed orders passed subsequently, after the matter was reserved for orders after hearing learned counsel for both the parties, and has sought amendment in the prayer of the writ petition for quashing of the orders 5.7.2006 (Annexure AD-1) and dated 6.7.2006 (Annexure AD-2).

4. I have heard Shri P. Diwakar, leaned Senior counsel with Shri Adil Minhaj, learned counsel, appearing for the petitioner and Shri Sushil Dubey, learned Government Advocate appearing for the

respondents/State and perused the relevant papers available on record.

5. The case of the petitioner is that by the impugned order as many as 30 Professors were promoted on the posts of Principal out of which number of Professors have been accommodated as per their wish to serve at particular place, on their representations, but none of the representations (dated 18.10.2005 Annexure P/3 and 19.10.2005 Annexure P/4) made by the petitioner has been considered by the respondents/State for his posting as Principal in Government Science Post Graduate College, Bilaspur.

6. The respondents have filed their reply and have categorically denied the allegations of the petitioner and submitted that the petitioner cannot be posted at the place of his choice. The transfer is an exigency of service and the employee has to carry out his duties at the place and post wherever he is directed.

7. The petitioner has not filed any document to bring on record any other grounds or instance, accommodating other persons.

8. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee is to be posted in the interest of administration and public. This Court has limited jurisdiction to interfere in transfer matters and this Court can interfere only in the case of proved malafide, non-competence of the authority is passing the transfer order, and order not being in conformity with the rules and regulations. None of the above grounds are available to the petitioner.

9. The petition is accordingly dismissed. However, in the facts and circumstances of the case when the petitioner is willing to forego his promotional avenues in order to concentrate on his research and academic work at Bilaspur, the respondents/authorities may consider his representation for the same, in the event any representation, if so advised, is made. On such representation being filed, the respondents/authorities are directed to consider the same in accordance with law, on its own merit, within a period of three weeks from the date of receipt of this order.

10. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge